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Monterey County Pesticide Regulatory Program 2005/2006 and 2006/2007 Performance Evaluation Report

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Performance Evaluation of the Monterey County Agricultural Commissioner Pesticide Use Enforcement Program

This report provides a performance evaluation of Monterey County Agricultural Commissioner's (CAC's) pesticide use enforcement (PUE) program for the fiscal years 2005/2006 and 2006/2007. The assessment evaluates the performance of goals identified in the CAC's enforcement work plan as well as the program's adherence to Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Standards Compendium.

I. Summary Report of Core Program Elements

Throughout the 2005/02006 and 2006/2007 fiscal years, the following core areas of the Monterey County pesticide enforcement program were evaluated: restricted materials permitting, compliance monitoring, and enforcement response. The report findings are based on field observations, oversight inspections, review of county records, and an evaluation of pesticide use and illness investigations for the fiscal years 2005/2006 and 2006/2007.

A) Restricted Materials Permitting:

The restricted materials permitting program element was found to meet DPR standards and work plan goals.

B) Compliance Monitoring:

The compliance monitoring program element was found to meet DPR standards and work plan goals.

C) Enforcement Response:

The enforcement response program element was found to meet DPR standards and work plan goals.

Summary Statement:

No deficiencies have been identified in the Monterey County Agricultural Commissioner's pesticide use program and the program is currently effective.

II. Assessment of Core Program Effectiveness and Work Plan Goals

A) Restricted Materials Permitting:

1) Permit Issuance

All staff of the Monterey County Agricultural Commissioner's office who issue restricted material permits are knowledgeable of pesticide laws and regulations. All of the Monterey County pesticide use enforcement staff possesses certificates/licenses in pesticide regulation and investigation and environmental

Monitoring or are under supervision of Use Enforcement Deputy. The experienced staff will oversee staff that may be less experienced with permit issuance. During permit issuance CAC staff will use their knowledge of local conditions, pest pressures, permit conditions, restricted materials when considering appropriate mitigation.

A grower letter and work sheet is sent to the restricted materials permit applicant prior to permit issuance. Restricted materials applicants will make changes to the work sheet and by appointment will submit the worksheet to the Monterey CAC. Oral interviews are done with the person applying for a restricted materials permit to determine if they are property operators, site maps are reviewed and, continuing education credits are confirmed for Private Applicators. If the applicant possesses a Private Applicator Certificate or a Qualified Applicator License or Certificate, the license or certificate number is listed on the restricted materials permits. If the applicant is not the property operator, a letter of authorization is required to be in possession of the applicant prior to the issuance of the permit. The permit worksheet is assigned to a biologist; the biologist will use the restricted materials and environmental impact report checklist to ensure permit requirements are met at permit issuance. The permit applicant is notified once the permit is completed.

Monterey County uses the Restricted Materials Management System (RMMS) to issue permits. Since the program will not allow a field to be left incomplete, restricted materials permits are amended by using a restricted material permit supplemental form in person or by fax. When the permit is amended, the change is made on a supplemental page and is attached to the original permit.

The majority of restricted materials permits issued by the Monterey County are for a one-year period. Monterey County issues approximately 2,000 operator IDs and restricted materials permits annually. Monterey County managers and supervisors provide annual training on the policies and procedures used to issue restricted material permits and operator I.Ds. DPR has also provided restricted materials training.

The DPR evaluation determined that permits are:

- Issued only to qualified applicants;
- Signed by authorized persons;
- Issued for a time period allowed;
- Permit amendments follow approved procedures.

2) Site Evaluation

Notices of Intent (NOI's) are received by fax in the main office and the two branch offices, and by drop box at each of the offices. The main office is open from 8:00 AM till 12:00 PM and from 1:00 PM till 5:00 PM, and branch offices are open for limited times during the afternoon. Monterey CAC staff will review NOIs received by fax or drop box. Licensed pesticide enforcement staff will

review the NOI against the permit. Monterey County's pesticide regulatory Salinas office is staffed from 8 am to 5 pm. NOIs are submitted at least 24-hours prior to the start of the application. A request to waive the 24-hour NOI may be granted on a case-by-case basis. Each biologist in the field has a mobile radio/cell phone and can be contacted to review NOIs in sensitive areas. Sensitive sites include, but are not limited to parks, residential areas, schools, hospitals, labor camps and other crops. The biologist has the authority to accept or deny notice of intents and will give notice to the operator of the property and the pest control business when the notice of intent is denied.

Approximately 21,000 Notice of Intents are received annually.

Prior to approving a restricted material on a permit, the Monterey CAC staff will confirm that the pesticide is registered for use on the commodity using DPR's pesticide label database. Biologist issuing the restricted materials permit will also review any permit condition that may apply to the restricted use pesticide, and will add the condition to the site. Maps submitted by the permit applicant during permit issuance are reviewed by the biologist to ensure sensitive sites are identified on the map and include; labor camps, residential areas, roadways, schools, waterways and other sites designated by the commissioner.

Notice of intents for restricted materials to be applied near sensitive sites are evaluated and denied if the site does not meet the conditions of the permit or label restrictions. The application may be denied, conditioned, or be made using non-restricted pesticides. When notices of intents are denied, the property operator and pest control business are notified and a permit denial form is completed.

Permits:

- Contained the necessary information;
- Identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses; and
- Identified mitigation measures and included conditions that addressed known hazards.

The CAC staff adequately evaluated permits and determined if the use of feasible alternatives was required. CAC staff reviews all Notice of Intents (NOIs) in a timely manner and adequately monitored agricultural and non-agricultural permits utilizing pre-application site evaluations and use monitoring inspections.

B) Compliance Monitoring:

1) Inspections

Monterey County's Pesticide enforcement staff that conducts inspections and investigations possesses certificates/licenses in pesticide regulation and

investigation and environmental monitoring. Monterey CAC staff who do not possess certificates/licenses are supervised by supervisors and by licensed staff. Over the last two fiscal years the Monterey CAC has had a high turn over of licensed staff, in the past two years approximately nine Biologists have left the Monterey CAC office. Currently the Salinas office has nine PUE biologist that range in experience from a few months to five years. On average there are five staff in the King City and Pajaro satellite offices who are responsible for all the CAC programs including the PUE duties.

Monterey CAC intended to increase their field presence and to perform more structural inspections than in previous years. It was difficult for the Monterey CAC to meet their goals of an increased field presence. During the 05/06 and 06/07 the Monterey CAC lost nine biologists and during the same time the CAC's office dedicated several hundred hours on permit review and on the Light Brown Apple Moth find and eradication program.

Monterey County Agricultural Commissioner's staff has attended training sessions that included regulatory response, restricted materials, respirator training, and the Monterey CAC Program Manager has also provided various trainings for staff. Monterey CAC managers meet on a weekly basis to discuss the appropriate compliance or enforcement actions on inspections and investigations where non-compliance has been found.

Biologists when conducting pesticide use-monitoring inspections will contact the supervisor or employer of the employee to explain the non-compliance found. Follow-ups are completed by insuring the non-compliance is corrected at the site, conducting a follow-up inspection or by an employee headquarter inspection. Notices of violations, decision reports, and notice of proposed actions are prepared by the biologist and are reviewed by CAC management.

Inspections performed by the CAC were found to:

- Adequately address label, law and regulatory requirements;
- Include interviews of employers and employees;
- Adequately document violations; and
- Include appropriate follow-up inspections and procedures.

2) Investigations

Monterey County Agricultural Commissioner's staff who conduct pesticide enforcement investigations have attended pesticide episode investigation training. The CAC receives complaints in to the districts offices, main office, or from other agencies. The complaint or illness investigation will be distributed to the district where the incident occurred. An experienced biologist is assigned to investigate the complaint, and at times is accompanied by a biologist with less experience to assist. Incidents or complaints involving pesticides are investigated and a written report is completed for each case.

C) Enforcement Response:

All inspections and investigations where non-compliances were found, or a notice of violations has been written, are entered into the CAC's violation/warning (vio/warn) compliance history database. Each biologist who finds a violation will review the vio/warn database for the violator's compliance history. The biologists are required to conduct follow-up inspections, which may include a Headquarter employer/employee inspection when worker safety non-compliances are found. The Biologist will then follow the enforcement response regulation and will classify the non-compliance. Once the non-compliance is classified the biologist will prepare a decision report or a notice of proposed action that will be reviewed by CAC management at their weekly meeting and notice of proposed actions are finalized for the Commissioner's signature. Enforcement actions are taken when violations are found on incidents involving drift, pesticide related illnesses, or when required by the enforcement response regulation.

The CAC' enforcement program was found to:

- Initiate the appropriate action when violations are identified;
- Sufficiently support compliance, enforcement and public protection actions.

The CAC levies fines in the appropriate category, adheres to statutory time frames and follows DPR policies when imposing civil penalties.

III. Recommended Corrective Actions

No corrective actions are currently needed.

IV. Non-Core and Desirable Activities

Outreach and Training

The Monterey County Agricultural Commissioner's office provides from the Salinas office approximately four continuing education classes in English and two in Spanish for Private Applicators. Monterey CAC staff also provides one English and one Spanish CE class from the Pajaro and King City office. Monterey CAC staff participates at University of California Cooperative Extension seminars.